

This opinion is not binding precedent of the Board.

Paper 106 58

Filed by: Trial Section Motions Panel
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UNITED STATES PATENT AND TRADEMARK OFFICE

C. RICHTER KING,
MATTHIAS H. KRAUS, and STUART A. AARONSON,

Junior Party
(Application 07/110,791)

MAILED

NOV 21 2001

v.
DENNIS J. SLAMON, PAT. & T.M. OFFICE
WILLIAM L. McGUIRE, and AXEL ULLRICH, BOARD OF PATENT APPEALS
AND INTERFERENCES

Senior Party
(Patent 4,968,603)

Patent Interference No. 104,519

Before LEE, GARDNER-LANE, and TIERNEY, Administrative Patent Judges.

GARDNER-LANE, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

King has filed a paper stating the following (Paper 105 at 2) :

In accordance with the provisions of 37 C.F.R. §1.662, King hereby
abandons the contest as to the existing count.

King's statement is treated as a request for entry of adverse judgment against King as to all its claims that correspond to the count. See 37 CFR § 1.662(a).

ORDER

Upon consideration of the record of the interference, it is

ORDERED that judgment on priority as to Count 2¹, the sole count in the interference, is awarded against junior party C. RICHTER KING, MATTHIAS H. KRAUS, and STUART A. AARONSON;

FURTHER ORDERED that junior party C. RICHTER KING, MATTHIAS H. KRAUS, and STUART A. AARONSON, is not entitled to a patent containing claims 44, 46, 47, and 62 of application 07/110,791, which correspond to Count 2;

FURTHER ORDERED that a copy of this decision be given a paper number and be entered in the King's 07/110,791 application and Slamon's 4,968,603 patent; and

Count 2 and the claims of the parties which correspond to Count 2 are set forth at Paper 100 (Order Redeclaring Interference).

FURTHER ORDERED that, if there is a settlement agreement, the parties are directed to 35 USC § 135(c).

Jameson Lee
JAMESON LEE)
Administrative Patent Judge)
)
Sally Gardner-Lane) BOARD OF PATENT
SALLY GARDNER-LANE) APPEALS AND
Administrative Patent Judge) INTERFERENCES
)
)
Michael P. Tierney)
MICHAEL P. TIERNEY)
Administrative Patent Judge)

cc (via facsimile and first class mail):

Counsel for Slamon (real parties in interest):

1. The Regents of the University of California (licensee, Bayer Corp.)
2. The Regents for the University of Texas System (licensee, Ventana Medical Systems)
3. Genentech)

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It is

ORDERED that the interference is redeclared as follows:

1. Count 2¹, set forth below, is substituted for Count 1 (material deleted from count 1 is stricken out).

Count 2

A method according to claim 1, 7, or 17 of Slamon (4,968,603)

or

A method according to claim 44, 60, 61, or 62 of King (07/110,791).

2. The claims of the parties are:

Slamon: 1-22

King: 44, 46, 47, and 60-62

The claims of the parties which correspond to Count 2 are:

Slamon: 1-22

King: 44, 46, 47, and 62

The claims of the parties which do not correspond to Count 2 are:

Slamon: none

King: 60 and 61

¹ Count 2 is the same as proposed count A of Slamon preliminary motion 1 (Paper 31).